

#### REMARKS

Reconsideration and withdrawal of the rejection and the allowance of all claims now pending in the above-identified patent application (i.e., Claims 38-59) are respectfully requested in view of the foregoing amendments and the following remarks.

At the outset, it should be recognized that the present invention provides a modular barrier comprising a plurality of barrier sections having male and female ends. The female end of a first barrier section interacts with the male end of an additional barrier section, so that projection(s) provided at the female end of one barrier section mate with one or more projections provided at the male end of the additional barrier. The mating of the projections at the male and female ends enable the barrier sections to securely connect with each other. A hinge pin can be used to supply extra security for preventing the barrier sections from separating in the event of a collusion or impact with the barrier.

The claimed modular barrier further comprises a nose at the female end and a cavity at the male end, which corresponds to the nose. The nose has a surface of rotation, which is a surface of the profile of the comparatively wide base portion of the barrier (as best illustrated in FIGS. 1 and 2), which corresponds to the surface of the cavity of an additional barrier, so that the nose and cavity fit together

without any gap between them.

The shaped external surfaces of the nose and cavity are shaped for conforming to one another, so that when the nose of the additional barrier section is accommodated in the cavity, substantially all of the concavely shaped external surface of the cavity is juxtaposed with the convexly shaped external surface of said nose in any permitted angular orientation of the barrier sections for preventing any gap between the comparatively wide base portion of the barrier section and a comparatively wide base portion of the additional barrier section. This feature differs from any analogous surfaces of rotation found in the applied prior art of Striefel et al., U.S. Patent No. 6,059,491, which lack concavely-shaped external surfaces for forming the connection between adjacent barrier segments.

As will be explained in greater detail hereinafter, nowhere in the prior art is such a novel and efficient modular barrier, useful for traffic and crowd control, either disclosed or suggested.

By the present amendments, Applicant has cancelled prior Claims 18-37 and has substituted therefor new Claims 38-59, of which Claims 38 and 47 are presented in independent form. The newly presented claims recite, in greater detail, the external profiles of the surfaces of the barrier sections of the claimed invention to highlight that the "nose defin[es] a

convexly curved external surface projecting from said comparatively wide base portion at a first end of said barrier section; and, a cavity defining a concavely curved external surface formed in said comparatively wide base portion at a second end of said barrier section, . . . . "

There now being a total of twenty-two (22) claims pending in the instant patent application, Applicant remits the additional claims fee of \$36.00 (large entity) at this time.

Applicant is also filing a Request for Continued Examination and including the requisite RCE filing fee for allowing the Examiner to withdraw the finality of the last Office Action and to permit entry of new Claims 38-59 and their consideration on the merits.

Turning now, in detail, to an analysis of the Examiner's prior art rejection, in the final Office Action the Examiner has rejected Claims 18-25 and 29-37 (now corresponding to new Claims 38-47 and 51-59, of which Claims 38 and 47 are independent claims) as being anticipated, pursuant to 35 U.S.C. §102(e), by Striefel et al., U.S. Patent No. 6,059,491, on the contention that Striefel et al. discloses a barrier article comprising at least one barrier section having a comparatively narrow upright portion (18) and a comparatively wide base portion (24), which includes a female end (52) and a male end (54), with the male and female ends having corresponding projections and recesses that can be mated together

to form a hinge pin receiving aperture. The Examiner has further contended that additional barrier sections, identical to at least the first barrier section (10) are matable with at least one other barrier section, and that a hinge pin (64) is passable between the initial barrier section and the additional, adjacent barrier section, so that the mated barrier sections can be disposed in a rectilinear or curvilinear arrangement, in a gapless orientation, regardless of the angle of articulation existing between such adjacent barrier sections as taught by Striefel et al. The pending dependent claims were rejected as either being anticipated by, obvious over, Striefel et al., considered singularly or in combination with additional prior art.

In reply to the Examiner's anticipation rejection applying Striefel et al., this citation discloses a portable barrier, intended for use on construction sites to either impound fluids or else to stem the flow of slit, slurry, etc. The portable barrier in Striefel et al. comprises an upright portion and an attached "stablizing" toe (40), and the entire barrier is intended to be comprised of barrier sections which are joined by a hinge pin, unlike the presently claimed invention.

In addition to those differences (previously made of record by Applicant and hereby affirmed) between that taught and suggested by the applied prior art of Striefel et al. and

that now being claimed, Applicant cannot agree with the Examiner's interpretation of Striefel et al. that this reference discloses a barrier with a "corresponding recess, having a corresponding surface of rotation." Initially, it is questionable whether the ends of the barrier sections taught in Striefel et al. can even be considered to be recesses. Assuming arguendo that the surfaces attached to the wing walls can be considered to be recesses - and Applicant cannot agree with the Examiner's assessment on this point - these surfaces do not provide a "surface of rotation." This can best be seen from FIG. 7 of Striefel et al., which shows that the surface abutting an adjacent connector (60) is planar, and therefore cannot be said to provide a "surface of rotation."

Further, even if the vertically aligned bores (59) shown in Striefel et al. might be analogized to "surfaces of rotation," these surfaces do not include cavities having "a concavely shaped external surface formed in said comparatively wide base portion," as now recited in independent Claims 38 and 47 (emphasis added), and all remaining claims via dependency, i.e., the vertically aligned bores (59) of Striefel et al. cannot be seen as having concavely shaped external surfaces. The structure claimed by the instant Applicant results in a fit between adjacent barrier sections that is without a gap, in contrast to the prior art, in which the likelihood (if not certainty) of a gap forming between adjacent segments is submitted to be great.

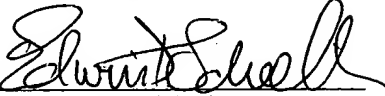
In light of the foregoing, it is respectfully contended that Striefel et al. neither anticipates, nor renders obvious, the present invention, as now being claimed, and, thus, the Examiner's 35 U.S.C. §102(e) anticipation rejection of the final Office Action should therefore be appropriately withdrawn.

In view of the foregoing, it is respectfully contended that all claims now pending in the above-identified patent application (i.e., Claims 18-37) recite a novel and safe modular barrier, comprised of barrier sections that are able to rotate relative to adjacent barrier sections without opening a gap between base portions of said barrier sections, which is patentably distinguishable over the prior art. Accordingly, withdrawal of the outstanding rejection and the

allowance of all claims now pending are respectfully requested and earnestly solicited.

Respectfully submitted,

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- Enc.: 1. Petition for Three-Month Extension of time; and,
2. Check for \$1,756.00 (Three-Month Extension Fee (\$950.00) + RCE Fee (\$770.00)+ Additional Claims Fee (\$36.00) (large entity)).

The Commissioner is hereby authorized to charge the Deposit Account of Applicant's Attorney, Account No. 19-0450, for any additional fees which may be due in connection with the prosecution of the present application, but which have not otherwise been provided for.